THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.11262 OF 2006

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8th June, 2006.

Between:

M/S Jaya Krishna Alluminimum Ltd.,

4th Floor, Kodali towers, S1, Balaji

Enclave, Transport Road, Secunderabad,

represented by its Managing Director,

V.Vidya Sagar and another. .Petitioners.

And

Employees Provident Fund Organisation,

Andhra Pradesh, SRO Patancheru, Medak District,

Represented by its Regional Provident Fund

Commissioner and others. .. Respondents.

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WRIT PETITION No.11262 OF 2006

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ORAL ORDER:

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This Writ Petition is filed aggrieved by the prohibitory order dated 15.5.2006 issued against the 3rd respondent-bank to withhold and pay an amount of Rs.12,97,839/- out of the bank account of the 1st petitioner-company, and also the consequential show cause notice dated 29.5.2006 seeking to arrest the 2nd petitioner.

It is not in dispute that the impugned prohibitory order was issued in exercise of the powers conferred under section 8-F Employees Provident Fund and Miscellaneous

Provisions Act, 1952 (for short "the Act") for the default committed by the 1st petitioner-company in payment of penal damages under the provisions of the Act for the period from January, 1993 to June, 1995; March, 1996 to March, 1999 and March, 2000 to September, 2003.

The 1st petitioner-company does not dispute the said liability. As a matter of fact, it is pleaded that substantial amounts towards EPF contributions have already been paid and that the EPF contributions for the current years are being made regularly. However, it is stated that since the 1st petitioner-company suffered heavy financial losses, it had to approach the Board for Industrial Finance Reconstruction (BIFR) under the provisions of Sick Industrial Company's (Special Provisions) Act, 1985. The BIFR having declared the 1st petitioner-company as a sick industrial company directed the operating agency to prepare a revival package. Pursuant thereto, the rehabilitation scheme submitted to the Board is under consideration. In the circumstances, the petitioners state that the respondents 1 and 2 ought to have kept the recovery proceedings pending and the coercive steps initiated under the impugned proceedings unilaterally, are arbitrary and illegal. Hence, this writ petition.

Having heard the learned counsel for the petitioner and Sri R.N. Reddy, learned standing counsel appearing for the respondents 1 and 2, though the impugned proceedings cannot be held to be either arbitrary or contrary to the statutory provisions, keeping in view the circumstances explained in the affidavit filed in support of the writ petition, I am of the opinion that it would be appropriate to permit the 1st petitioner-company to pay the penal damages of an amount of Rs.12,97,839/- for the delay in payment of EPF contributions in instalments, to meet the ends of justice.

Accordingly, the writ petition is disposed of permitting the 1st petitioner-company to pay the amount of Rs.12,97,839/- demanded under the impugned notice dated 15.5.2006 in twelve instalments at the rate of Rs.1,00,000/- per month, commencing from July, 2006 on or before 5th of every month. Consequently, the impugned prohibitory order dated 15.5.2006 and the show cause notice dated 29.5.2006 are hereby set aside. However, it is made clear that in case the 1st petitioner-company commits any default in payment of instalments as specified above, it is open to the respondents to initiate appropriate proceedings afresh in accordance with law.

The writ petition is accordingly, disposed of. No costs.

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(G. ROHINI, J.)

8th June, 2006.

Kgr/mjl